

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2161 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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HEMENDRA JAGMOHAN SHETH

Versus

GUJARAT HOUSING BOARD

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Appearance:

None present for Petitioner

None present for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 04/10/96

ORAL JUDGMENT

The matter was called out for hearing in the first round then in the second round and lastly in the third round, but none put appearance on behalf of the parties. Perused the Special Civil Application. On December 25, 1978, the Corporation by advertisement published in 'Sandesh' daily, notified Housing Scheme for higher income group, near Juna Sachivalaya, Ambavadi,

Ahmedabad, for estimated cost of Rs.85,000/- on hire purchase basis. The petitioner submitted an application on 29th January 1979 for allotment of residential tenement in scheme 78, H.I.6, Vastrapur, Ahmedabad, and he paid Rs.8,500/- as deposit with the application. As a result of a lucky draw, the petitioner was placed on a list of successful applicants for allotment of the tenement in the said scheme on priority basis. Thereafter certain formalities were called upon to be completed by the petitioner. The respondent, under its letter dated 18th January 1980, informed the petitioner that he is not entitled for the allotment of house under the said scheme as he was not in the higher income group as per his own affidavit. Accordingly the application of the petitioner for allotment was rejected. The petitioner then filed Civil Suit No.429 of 1981 in the City Civil Court, Ahmedabad, against the respondent for declaration and injunction in respect of the allotment of a tenement to the petitioner under the said scheme. This suit was dismissed on 11th August 1983. The petitioner then preferred First Appeal No.1554 of 1983 before this Court which has been allowed on 20th June 1985 and directions were given to the respondent to give opportunity to the petitioner to furnish evidence as to his income and decide the issue as to allotment of tenement under the said scheme. The grievance of the petitioner is that the respondent has not acted in accordance with the directions given by this Court and he therefore filed Misc. Civil Application No.942 of 1985 in First Appeal No.1554 of 1983 for the Contempt of Court's order. During the pendency of aforesaid Misc. Civil Application, the respondent, under its letter dated 29th January 1986, allotted Tenement No.41 to the petitioner for Rs.1,99,700/-. The petitioner has come up with the case that the other allottees under the said scheme were allotted tenement for Rs.1,63,300/-. The petitioner made several representations but nothing has been done and hence this Special Civil Application.

2. The grievance of the petitioner is not tenable. The costs of the premises has to be charged as per its cost on the day on which allotment has been made. The petitioner has very conveniently avoided to give the dates on which the houses have been allotted to other allottees for the cost of Rs.1,63,300/-. It is not the arbitrary action of the respondent to charge such cost of tenement. I do not find any substance in this Special Civil Application and as such, the same is dismissed. Rule discharged. Ad-interim relief, granted by this Court stands vacated. No order as to costs.

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(sunil)